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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,298	12/04/2001	Scott Edward Klopfenstein	RCA 89549	5738

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Thomson Multimedia Licensing Inc
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EXAMINER

KOSTAK, VICTOR R

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/009,298	Applicant(s) KLOPFENSTEIN ET AL.	
	Examiner Victor R. Kostak	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-11 is/are rejected.
- 7) ☒ Claim(s) 1-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's arguments filed on 08/23/04 have been fully considered but they are not persuasive in so far as claims 9-11 stand, explained as follows. Applicant's arguments are addressed in the context of the rejections of claims 9-11 below.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 9-11 stand rejected under 35 U.S.C. 102(e) as being anticipated by Gangitano.

Reviewing the television system of Gangitano (noting particularly Figs. 3, 4, 7 and 8), it includes a direct broadcast satellite receiver (col. 1 lines 13-14) which by standard incorporates digital signals (in MPEG format). Tuner 30 (Fig. 7) by definition enables selection of a TV signal from a plurality of available signals; CPU 36 provides various control operations including that of the signal processing; element 22 (shown in Fig. 4) determines the signal strength of the selected TV signal; as shown in Fig. 8, CPU 36 further enables the TV signal to be displayed alone when the signal strength is detected to be at an acceptable level (block 106) and in a second mode displays a strength indicator signal superimposed over the TV signal (block 108) by virtue of element 34 shown in Fig. 7.

Regarding claims 9 and 10, the signal strength is an indication of the position of antenna 12, and the position is adjusted to a position that provides the optimum signal reception (col. 3 lines 53-62; col. 5 lines 38-46).

Applicant argues that Gangitano is merely concerned with detecting a single signal strength and displaying the strength of that signal. That is not accurate because the receiver of Gangitano can tune to any of available channels that carry television signals at respective frequencies. His receiver then detects the strength of the currently received signal at that instant. (The receiver of Gangitano does not incorporate an impractical single-frequency tuner dedicated to one specific channel.) Gangitano further points out that his tuner/decoder 30 selects and decodes the desired portions of the *signals* (plural) for processing into television *signals* (plural) for use by television 20 (col. 5 lines 11-14).

Applicant's statement that Gangitano discloses continuously checking the "single received signal" in col. 5 lines 38-46 is not literally stated that way, but it is not argued that a single signal is at any one moment checked. However, from the time of powering up the receiver to turning it off, one of ordinary skill in the art can consider that on any currently tuned to channel, multiple signals are received that correspond to different programs or presentations on that channel, such as a first show at one time and another program at a subsequent time. At other times, commercial presentations can be received which one of ordinary skill in the art can consider being respective signals different from the programs.—instead of one continuous signal being received from turning the receiver on to turning it off. Even further, any segment of an incoming data stream can be considered a signal distinct from another segment. The signal strength can at any of these times be detected for these plural signals.

Yet further, applicant's claim 9 does not dismiss the situation of Gangitano's receiver requiring the antenna to be positioned in some initial (maybe arbitrary) default position. The position, as is disclosed, is ultimately adjusted to optimize reception based on signal strength, the

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measurements being displayed. Following this, the viewer can very readily change the channel and that instantaneously received signal can be measured and its value accordingly displayed. Further channel changing is always an option. Therefore, the strength of each signal can be displayed, irrespective of an initial antenna position.

Finally, a final reception position is selected (noting again col. 3 lines 38-46 and col. 5 lines 38-46), for “*at least one*” channel, that is, for that particularly tuned to channel. The thrust of applicant’s arguments seems to require that a permanent antenna position be based on measurements for plural channels, but that is *not* required in the claim. Claim 9 does not even explicitly tie in the digital signals with the “at least one” channel. Claims 9 and 10 therefore are met by Gangitano.

Dependent claims 10 and 11 were not individually argued as applicant bases their patentability on base claim 9.

Repeated from the last Office action, the TV signals (received as digital signals from DBS receiver 14) are presentable as normal signals during real-time display of the signal strength indicator (noting again Figs. 7 and 8), thereby meeting claim 11.

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
3. Claims 1-8 are allowable over the prior art.

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4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is 703 305-4374. The examiner can normally be reached on Monday - Friday from 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703 305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this final action should be mailed to:

Box AF
Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9306 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 308-HELP.



Victor R. Kostak
Primary Examiner
Art Unit 2614

VRK